

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DK Real Estate Group LLC and DK Builders  
Group Inc.,

Plaintiffs,

-against-

Klearwall Industries, LLC and Munster  
Joinery,

Defendants.

USDC SDNY  
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1:18-cv-07439 (LGS) (SDA)

ORDER

**STEWART D. AARON, United States Magistrate Judge:**

Currently before the Court is Defendants' Letter Motion requesting a discovery conference and an extension of the expert discovery deadline. (Defs. Letter Motion, ECF No. 67.)<sup>1</sup> Defendants' Letter Motion is GRANTED IN PART and DENIED IN PART.

Defendants' motion for a discovery conference is DENIED. The fact discovery deadline was September 20, 2019.<sup>2</sup> The time for Defendants to seek to compel production of documents has long since passed. Thus, there is no need for a conference regarding fact discovery issues.

Defendants' motion for extension of the expert discovery deadline is GRANTED IN PART. Defendants have not been diligent in conducting expert discovery. The Court's Order, dated June 24, 2019, which extended the expert discovery deadline to November 20, 2019, expressly warned that the deadline "will not be extended except for good cause shown, and then only for a limited

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<sup>1</sup> In deciding the Letter Motion, the Court also has reviewed Plaintiffs' letter in response (Pl. Ltr., ECF No. 68) and Defendants' letter in reply. (Def. Reply, ECF No. 69.)

<sup>2</sup> On September 10, 2019, the September 20, 2019 deadline was extended for the limited purpose of taking Brendan Harte's deposition by September 25, 2019. (9/10/19 Order, ECF No. 62.)

purpose." (6/24/19 Order, ECF No. 51.) The Court, in its discretion, finds that Defendants, who waited until the day before the expert discovery deadline to file their Letter Motion, have not shown good cause to extend the deadline for window testing. Nevertheless, given Plaintiffs' agreement to continue testing at the 14-23 Broadway location on November 25, 2019, the Court shall extend the expert discovery deadline for the limited purpose of permitting such testing at that location only on November 25, 2019.

In addition, the Court, in its discretion, shall extend the deadline for submitting expert reports and for conducting expert depositions, as follows:

1. If either Plaintiffs or Defendants intend to present expert testimony at trial, they shall serve their expert reports, in compliance with Fed. R. Civ. P. 26(a)(2)(B), no later than December 16, 2019.
2. Any rebuttal expert reports shall be served no later January 7, 2020.
3. Depositions of any experts who submit reports shall be concluded by January 21, 2020, or shall be deemed waived.

**SO ORDERED.**

DATED:           New York, New York  
                  November 21, 2019



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STEWART D. AARON  
United States Magistrate Judge